THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 11671 of 2006

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Oral order:

The father of the petitioner, namely A. Yadaiah, while working in the 4th respondent-College as Watchmen died in harness. Consequent upon his death, the petitioner submitted application to the respondents for providing him employment on compassionate grounds. As no action thereon had been taken, the petitioner filed writ petition in W.P. No. 6857 of 2005. While the said writ petition was pending before this Court, the 2nd respondent issued proceedings dated 09.01.2006 directing the Regional Joint Directors of Intermediate Education, to issue compassionate appointment orders to the dependants of the deceased employees against vacant non-teaching posts available in Government Junior Colleges. The petitioner states that though the name of his father was shown at Sl. No. 7 in the Annexure to the said proceedings issued by the 2nd respondent, the 3rd respondent-Regional Joint Director, has not taken any action for appointing him on compassionate grounds in Class-IV post in any of the Government Junior Colleges. Hence, the petitioner filed the present writ petition seeking directions to the 3rd respondent to implement the proceedings dated 09.01.2006, issued by the 2nd respondent. During the pendency of this writ petition, the 3rd respondent issued proceedings dated 14.06.2006, rejecting the case of the petitioner for appointment on compassionate grounds. Hence, the petitioner filed W.P.M.P. No. 28288 of 2006, seeking to amend the prayer in the writ petition, *inter alia* to assail the order dated 14.06.2006 of the

3rd respondent also.

Respondent Nos. 1 to 3 and 4 filed separate counters. The counters *inter alia* denied the poor financial position of the family of the deceased. While admitting that in the proceedings dated 09.01.2006 issued by the 2nd respondent, the name of the petitioner's father was shown at Sl. No.7 in the Annexure, it is submitted by the respondents that by the said proceedings, the Regional Joint Directors were

directed to issue compassionate appointment orders to the dependents of the deceased employees, who worked in Private Aided Junior Colleges, against vacant non-teaching posts available in Government Junior Colleges, subject to fulfillment of all eligibility conditions, and that in the said proceedings, it is nowhere mentioned that the petitioner has to be appointed in Class-IV Cadre. The respondents further contended that the petitioner's mother submitted false information as to the income of the family. It is stated that the mother of the petitioner, namely Smt. A. Lalitha is working as Attender in aided vacancy in Sarojini Naidu Vanitha Mahavidyalaya College, and drawing salary of Rs.9,301/- per month, and besides that she is receiving pension of Rs.1800/- per month for the services rendered by the deceased. It is further stated that the petitioner is also doing private job and earning Rs.2,000/- per month. Since the financial position of the family of the deceased was sound, the respondents did not provide compassionate appointment to the petitioner, and no exception can be taken thereto.

The learned counsel for the petitioner submitted that though the 2nd respondent issued proceedings dated 09.01.2006 directing the Regional Joint Directors of Intermediate Education, to issue compassionate appointment orders to the dependants of the deceased employees against vacant non-teaching posts available in Government Junior Colleges, and though the name of the petitioner's father was shown at Sl. No. 7 in the Annexure to the said proceedings, the 3rd respondent-Regional Joint Director has not taken any action for providing employment to the petitioner on compassionate grounds in Class-IV post in any of the Government Junior Colleges and instead he rejected the case of the petitioner, by impugned proceedings dated 14.06.2006, which is illegal and arbitrary. He further submits that though the petitioner was doing private job in a Wine Shop and getting salary of Rs.2,000/- per month at relevant point of time, subsequently he lost that job and now that he is facing financial difficulty and unable to maintain himself and his unmarried sister, submitted that the respondents ought to have provided him compassionate appointment. He further submits that no doubt the mother of the petitioner is working as Attender, but she was appointed much before her husband was appointed, and this apart, since she is living separately, the respondents could not have taken her employment for rejecting the

case of the petitioner for appointment on compassionate grounds. He, thus, prays to set aside the impugned order passed by the 3rd respondent and allow the writ petition.

The learned Government Pleader for Higher Education appearing for respondent Nos.1 to 3 as well the learned counsel for respondent No.4 reiterating the counter averments submitted that since the mother of the petitioner, namely Smt. A. Lalitha is working as Attender in an aided vacancy in Sarojini Naidu Vanitha Mahavidyalaya College, and drawing salary of Rs.9,301/- per month, besides receiving pension of Rs.1800/- per month of her late husband, and having regard to the fact that the petitioner was also doing private job and earning Rs.2,000/- per month, the 3rd respondent, came to the conclusion that the petitioner's family is not in financial difficulty, and therefore, rejected the case of the petitioner for providing employment on compassionate grounds, and no exception can be taken thereto.

Heard the learned counsel for the petitioner, learned Government Pleader for Higher Education appearing for respondent Nos.1 to 3, and the learned counsel for respondent No.4.

The object of providing compassionate appointment is to provide immediate relief and succor to the family of the deceased to enable them tide over the sudden financial crisis that may befall on family on the death of the sole breadwinner. Be that as it may, providing of employment on compassionate grounds to the family member of the deceased is not as a matter of right, but is subject to the poor financial condition of the family at the time of the death of the deceased employee. The apex Court in **Shri Umesh Kumar Nagpal v. State of Haryana and others**[1], has noted the objects of granting compassionate employment, and they are:

> **I.(i)** To enable the family to tide over the sudden crisis by the death of the sole bread winner;
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> **(ii)** To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
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> **II.** Mere death of an employee in harness does not entitle his family to such source of livelihood.
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> **III.** The Government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
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> **IV.** The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.

V . Consideration for compassionate employment is not a vested right to be exercised at any time in future.

Admittedly, prior to the death of the deceased, the mother of the petitioner was in service working as Attender in Sarojini Naidu Vanitha Mahavidyalaya College, Hyderabad, and a perusal of the Service Certificate dated 07.07.2006 issued by the Secretary-cum-Correspondent of that College clearly shows that the mother of the petitioner has been working as Gardener in their College since 01.10.1974 in a Grant-in-aid post, and as on 07.07.2006, she was drawing salary of Rs.9,301/-. Apart from her salary, she is receiving pension of Rs.1,800/- per month for the services rendered by the her late husband. Though the petitioner's mother and the petitioner were earning substantial amounts as on the date of death of the deceased, the counter filed by the respondents, shows that they are said to have furnished incorrect information as to their financial position at the time of enquiry by the M.R.O., concerned. The counter of the respondents further shows that the mother of the petitioner is said to have not responded to the Circular issued by the respondent-College directing her to submit non-employment certificate for considering the case of the petitioner for compassionate appointment in terms of G.O. Ms. No.281, Education (J) Department, dated 29.05.1985, according to which the spouse or the dependent children of the deceased employee, who die in harness, are eligible for appointment, in the event there is no other earning member in the family. The said G.O. further prescribes that applications for appointment on compassionate grounds shall be entertained within a period of one year from the date of occurrence of the death of the deceased employee, who died in harness. The affidavit of the petitioner is silent as to whether he had made the application within one year as prescribed in the G.O.

Though the petitioner contends that his mother is residing separately, and that he himself and his unmarried sister are dependents of the deceased, nothing is placed on record to prove the said contention, and on the other hand, the legal heir certificate dated 14.03.2001, issued by the M.R.O. Golconda Mandal, shows that the petitioner was living along with his mother, brother and sisters in H. No. 9-1-224/A/1/4/A, Prasanth Nagar, Langer House, Hyderabad, and even though the address in the cause title is different from the one mentioned in the legal heir certificate, but yet that cannot be a ground for him to seek employment on compassionate grounds, more so when

it is given keeping in view the poor financial position of the family that prevailed on the death of the deceased. In the instant case, as on the date of death of the father of the petitioner, not only his wife, namely the mother of the petitioner but the petitioner as well were already employed and were getting substantial amounts as income. This apart, after the death of the deceased, the mother of the petitioner is also getting pension, and she must have also received the death benefits of her husband. Given the quantum of amounts earned by the family of the petitioner, it cannot be said that their family was living or in fact is living in penury, entitling the petitioner to claim employment on compassionate grounds. In that view of the matter, no exception can be taken to the action of the respondents in rejecting the request of the petitioner for providing employment on compassionate grounds, and more so when grant of compassionate appointment, is not a vested right, but is granted only to tide over the immediate financial crisis that befalls on the family on the death of the sole bread winner.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 6th September, 2007.
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[1] 1994 (4) SCC 138